

MAY 18 2009

Application Serial No. 10/541,014
Reply to office action of February 18, 2009

PATENT
Docket: CU-4290

REMARKS/ARGUMENTS

Reconsideration is respectfully requested.

Claims 1-4 are pending before this amendment. By the present amendment, claims 2-3 are canceled without prejudice; claim 2 is amended; and new claim 5 is added. No new matter has been added.

In the office action (page 2), claims 2-4 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,136,657 (Hattori). The "et al." suffix is omitted in a reference name.

The applicants respectfully traverse the rejection.

In the present invention, a guide surface is provided having a slant declining forward to guide air flow (which is near an opening at a lower portion of the shell allowing a user's head to be put in the helmet) inside the safety helmet.

Conventionally, the inside of the cushion pad is in close contact with a user's head causing ventilation holes to be blocked restricting the flow of external air inside of a helmet. Furthermore, the ventilation holes cause a user to be exposed to a disturbing loud wind sound.

In the present invention, the claimed safety helmet includes a guide surface formed at the back rim of an opening in which the user's head is received, and the guide surface is formed to have a slant **declining forward** towards the user. Further, in the present invention, the guide surface guides air flow **near the opening to the inside of the cushion pad** (see FIG. 4). Thus, in the presently claimed invention, the guide surface is structured so as to function to guide air flow **near the opening inside the safety helmet**.

Thus, claim 1 includes a plurality of head supports which extend toward the inner space and contact the user's head, and a guide surface having a slant declining **forward** from a back rim of the opening, **in order to guide air flow near the opening inside of the safety helmet**.

In the office action (page 2), the examiner contends that Hattori discloses "the bottom of the helmet as shown in FIG. 1 has a slant declining forward from the back rim" which allegedly teaches the guide surface of the presently claimed invention.

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Referring to FIG. 1 of Hattori, the applicant respectfully submits that the helmet of Hattori does not have an element corresponding to the guide surface of the present invention guiding air flow near the opening inside the helmet. The slant that the examiner recited in the detailed action of 18 February 2009 is a lower edge of the helmet, and does not function as a guide surface guiding air inside the helmet, nor does Hattori teach that the lower edge of the helmet provides the necessary structure of a guide surface with a slant declining forward from a back rim to function to guide air flow near the opening inside the safety helmet.

MPEP §2173.05(g) makes it clear that:

"There is **nothing inherently wrong** with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F2d 210, 169 USPQ 226 (CCPA 1971)."

The MPEP **requires** that the functional claims should be treated as and be examined "just like any other limitation of the claim":

"A functional limitation **must** be evaluated and considered, **just like any other limitation** of the claim, for what it fairly conveys to a person of ordinary skill in the art in the context in which it is used." MPEP §2173.05(g).

However, the examiner does not appear to have given the limitation --a guide surface ... in order to guide air flow near the opening inside the safety helmet-- weight, since the examiner does not appear to have addressed this limitation in the rejection.

The applicants respectfully submit that the limitation --a guide surface ... **in order to guide air flow near the opening inside the safety helmet**-- defines structural attributes of the present invention that are not taught by Hattori. Accordingly, the applicants respectfully submit that Hattori does not teach each element of the present invention of claim 2.

Accordingly, for at least this reason the applicants respectfully submit that Hattori does not teach each element of the amended claim 2.

New Claim 5

New claim 5 recites that the safety helmet further comprises --a protrusion protruding to slant downward from the back rim of the opening towards the user,

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wherein the guide surface is provided on a top surface of the protrusion--. Hattori does not teach such a protrusion; and for at least this reason, the applicants respectfully submit that claim 5 is in condition for allowance.

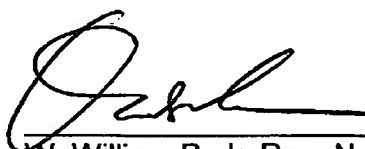
In the office action (page 3), claim 1 is allowed. The applicant notes with appreciation the indication of allowable subject matter.

For the reasons set forth above, the applicant respectfully submits that claims 1-2 and 5, now pending in this application, are in condition for allowance over the cited references. Accordingly, the applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and earnestly solicits an indication of allowable subject matter.

This amendment is considered to be responsive to all points raised in the office action. Should the examiner have any remaining questions or concerns, the examiner is encouraged to contact the undersigned attorney by telephone to expeditiously resolve such concerns.

Respectfully submitted,

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